

Title of Regulation:

Regulation No.:

R 43-70

**TEXTBOOK ADOPTION
REGULATION**

Effective Date:

03/24/00

Constitutional and Statutory Provisions:

Section(s):

59-5-60(7).

General powers of [State] Board.

59-5-90.

Powers and duties of State Educational Finance Commission and State Schoolbook Commission devolved upon Board.

59-31-30.

Use of uniform series of textbooks in state-aided schools; exceptions.

59-31-40.

Adoption of new books.

59-31-50

Uses of disapproved books unlawful.

59-31-210.

Board required to provide textbooks on rental basis.

59-31-510, et seq.

State Contracts for Textbooks.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Textbook Adoption Regulation

SECTION 1. Statutory Authority

Pursuant to Sections 59-5-60 and 59-31-550, the State Board of Education shall have the responsibility and duty to adopt the instructional materials used for instruction in the free public schools of South Carolina subject to the provisions of the sections that follow. South Carolina contract statutes and any other applicable State laws guide the instructional materials adoption process.

SECTION 2. Instructional Materials Evaluation Criteria

General criteria governing the adoption of instructional materials shall be developed and revised by the State Department of Education and presented to the State Board of Education. Specific subject criteria are contained in the grade level education standards adopted by the State Board as well as each curriculum framework, occupational education core curriculum, and other program area materials which are not addressed within the standards and/or curriculum framework and shall be used in the evaluation process.

SECTION 3 Instructional Materials Advisory Committee

The State Board of Education shall appoint, with the recommendation of the State Superintendent of Education, an Instructional Materials Advisory Committee. The Committee shall consist of fifteen members; six members who are actively engaged in teaching in South Carolina public schools; eight members who are actively engaged in school work either administratively or supervisory, at least one from each congressional district and two at large; and one lay citizen, preferably a former member of the State Board of Education. It is the intention of the State Board that the Committee membership include members whose interests reflect the needs of all students served by the educational system. Seven of the members shall be appointed for a term of two years; eight shall be appointed for a term of four years. Thereafter, the term of all appointed members shall be four years. The Committee shall be facilitated by appropriate staff members from offices of the State Department of Education.

The duties of the Advisory Committee shall be to study continually the Instructional Materials Review, Selection, and Distribution Process and make recommendations to the State Board of Education through the State Superintendent of Education as to changes needed in the process to meet the needs of students, schools, and school districts for instructional materials. The Committee should address: recommendations in regard to exercising options in existing contracts; recommendations in regard to renegotiating expiring contracts; and recommendations for prioritization of purchases should funds not be available. The Committee shall give careful attention to new and improved methods of presenting instructional materials. The Committee is authorized to secure the assistance and advice of consultants. Special consideration should be given to consultants from within the state.

The Instructional Materials Advisory Committee shall meet annually at the call of the Chair. Additional meetings, when necessary, may be held at the call of the Chair, a majority of its members, on request by the State Board of Education, or the State Superintendent of Education. However, the State Board of Education reserves the right to limit the number of official meetings this Committee may hold in one school year.

The Instructional Materials Advisory Committee may make curriculum reports when in its judgment such reports are deemed advisable. The Committee shall report to the State Board of Education not later than May of each year any changes needed to be made in the Instructional Materials Review, Selection, and Distribution Process during the following school year

SECTION 4. Instructional Materials Review Panels Established

The State Board of Education shall appoint, with the recommendation of the State Superintendent of Education, Instructional Materials Review Panel or Panels for each area for which a curriculum framework has been adopted by the State Board of Education, occupational education core curriculum, or other program areas not addressed within a curriculum framework. The number of Panels needed and number of Panel members needed for each framework, occupational education core curriculum, or other program area shall be included in the recommendation from the State Superintendent of Education. Names of potential Review Panel members shall be obtained from district superintendents, State Board of Education members, curriculum framework writing teams, State Department of Education curriculum specialists, and others. For each position there shall be a nominee and one alternate. In the event the nominee does not accept, the State Superintendent of Education is authorized to appoint the alternate and to make other substitutions when necessary.

It is the desire of the State Board of Education that a balance be maintained on each Instructional Materials Review Panel between large and small, rural and urban schools and school districts, and that the Panel membership include members whose interests reflect the needs of all students served by the educational system. Each Review Panel may have up to 25 percent lay membership. All other members shall be persons who are actively engaged in teaching, in the supervision of teaching, in the administration of public schools, and persons who have had teaching experience, special training or supervision in the subject field in which they have been appointed, or who have expertise in a subject area from which material and information should be integrated within the subject area under review. A majority of those appointed shall be full-time classroom teachers. The recommendations by the State Superintendent of Education shall include the size of each Review Panel, length of service term for each member, and the appointment of a State Department of Education staff member as facilitator for each Review Panel.

SECTION 5. Subject Areas Open for Bid

The State Board of Education, upon the acceptance of the recommendations from the Instructional Materials Advisory Committee or upon adoption or revision of a curriculum framework in a particular subject area, shall call for the adoption of instructional materials. The State Board of Education, through

the State Superintendent of Education, shall make information relative to the call for bids available to publishers/vendors and school administrators, not later than 210 calendar days preceding the adoption date. It shall also make arrangements for an official announcement at least forty-five days before bids are to be opened. This announcement shall be sent to all companies registered with the State Department of Education, and a notice shall be given by legal advertisement in at least one daily newspaper in the State of South Carolina in accordance with general legal requirements.

Upon formal notice of the call for bids by the State Superintendent of Education, sample copies of the bid forms shall be made available to be used by companies in submitting instructional materials for adoption and a copy of the contract and bond each company shall be required to execute if its materials are adopted.

The State Superintendent of Education shall develop for State Board of Education approval a schedule outlining major dates and occurrences of the adoption process. The State Superintendent is authorized to make adjustments in the dates when necessary for the success of the adoption program. A copy of the Calendar of Events shall be provided to publishers/vendors with the call for bids.

SECTION 6. Submission of Materials for Panel Review

Publishers/vendors shall submit one copy of a brief along with the official bid for all instructional materials being offered for adoption. Failure to comply with this regulation shall automatically exclude materials for adoption. The brief shall include the level of learning difficulty, an ancillary materials and services list to include designation of free materials and price of optional materials for purchase, and other specific descriptive information as required by the State Superintendent of Education.

Each bidding company or its representative is responsible for distributing instructional material samples to each member of the appropriate Instructional Materials Review Panel on or before the date set by the State Board of Education for each adoption year. Companies are requested to supply a copy of the brief with the instructional materials samples to each Panel Member. This may be done by personal delivery or by mail to the address specified by the Review Panel member. Arrangements shall be made by the State Superintendent of Education for presentations by each bidder to the appropriate Instructional Materials Review Panel as a group. These group presentations shall take place no sooner than thirty days after the date which bidders are expected to have delivered sample materials. During formal panel deliberations, thirty minute sessions will be scheduled for each bidder with the Instructional Materials Review Panels during which the bidder will be given the opportunity to answer additional questions and present additional information.

Review Panels may request additional information and appearances from bidders during the adoption process. This shall be done by the facilitator when requested to do so by the Panel.

SECTION 7. Responsibilities of the Instructional Materials Review Panels

It shall be the duty of each Instructional Materials Review Panel to rate all items offered for adoption and file a written report with the State Superintendent of Education. The report shall consist of the Panel evaluation, list of items which the Panel recommends as suitable for adoption, and an annotation which includes for each item or series of items the common reading level of text materials, level of learning difficulty, and other information as required by the State Superintendent of Education. In order to be placed on the recommended list, instructional materials must receive affirmative votes from at least two-thirds of the Panel members.

There is no limit to the number of individual items or series of items which may be recommended by a Review Panel. All submitted items which meet the general and subject specific criteria as outlined in the

grade level educational standards, curriculum framework, occupational education core curriculum, or other program areas for that subject should be recommended for adoption. However, prior provisions notwithstanding, the State Board of Education is not required to adopt any instructional materials recommended by the Review Panels that in the judgment of the State Board of Education are unsatisfactory.

The State Board of Education shall not approve and add a textbook or instructional materials to the state list of adopted materials unless it has been reviewed and rated by a properly constituted Instructional Materials Review Panel.

To facilitate efficient and competent evaluations by the Review Panels, the State Board of Education shall furnish the Panels with detailed instructions pertaining to its duties; an orientation to and copies of the subject's standards, curriculum framework, occupational education core curriculum, and other program area instruction; instructional materials evaluation criteria; and the time schedule necessary in order that the State Board of Education complete its work in an orderly fashion. It shall be the duty of the State Superintendent of Education or his/her designee to serve as coordinator and liaison between the State Board of Education and the Review Panels.

The Review Panels are authorized to secure the assistance and advice of consultants. Special consideration should be given to consultants from within the state. The Panels may receive clerical services from the State Department of Education.

Each Panel member must submit signed ratings sheets to the facilitator of the Review Panel for the State Department of Education files.

Textbooks shall not be recommended by the Instructional Materials Review Panels and the State Board of Education shall not adopt textbooks that fail to meet the official "Manufacturing Standards and Specifications for Textbooks." As national standards are developed for non-traditional materials, the State Board of Education may require adherence to those standards as well. Provided the State Board of Education reserves the right to waive minor deviations and technicalities, however, in each case the bidder is responsible for showing cause why the standards cannot be met. Copies of the official manufacturing standards and specifications and other applicable standards shall be made available for review to the bidding companies.

In the event an Instructional Materials Review Panel cannot submit a report that is acceptable to the State Board of Education, the Panel may be dissolved and a new Panel appointed in the same manner as the original Panel or the area may be considered for opening at a later date by the Instructional Materials Advisory Committee.

Each Instructional Materials Review Panel shall be dissolved according to the scheduled date of their term expiration.

SECTION 8. Public Review of Materials

The State Superintendent of Education shall make arrangements for a thirty-day public review of materials recommended by the Instructional Materials Review Panels prior to taking those recommendations to the State Board of Education. The public review sites shall be geographically distributed around the state at as many state-supported colleges and universities or, if necessary, other designated sites as will agree to host such reviews. The materials for public review shall be provided by the bidding companies. Public review sites shall be advertised in each congressional district in the newspaper with the largest circulation figures for that district.

A summary of the comments received during the public review period shall be provided to the State Board of Education to facilitate their adoption of instructional materials.

SECTION 9. Instructional Materials Review Panel Recommendations Submitted to State Board of Education

The State Department of Education shall provide to the State Board of Education, the Instructional Materials Advisory Committee, and the Instructional Materials Review Panels information to assist in determining whether instructional materials offered for adoption meet the official "Manufacturing Standards and Specifications for Textbooks" or other materials standards as available. A list shall be furnished of materials offered for adoption which, in the Department's judgment, fail to meet the manufacturing standards and specifications and specify in detail the deviations the State Department of Education finds prior to the rating by the Review Panels.

Materials which may not meet the appropriate manufacturing standards and specifications for those types of materials may be adopted when recommended by the appropriate Instructional Materials Review Panel and when the Panel's justification is deemed sufficient by the State Board of Education.

The Review Panels may recommend and the State Board of Education may adopt instructional materials in manuscript or beta stage. Provided, however, any contract awarded for materials in manuscript or beta form shall be subject to final approval by the State Board of Education and the Review Panels as to the final wording, format, illustrations and captions, and physical construction. None of the members of an Instructional Materials Review Panel for subject matter adopted in manuscript or beta form shall be discharged until final action has been taken by the State Board of Education on the completed product.

SECTION 10. State Board of Education Approval of Instructional Materials

Each Instructional Materials Review Panel shall submit to the State Board of Education through the State Superintendent of Education materials recommended for adoption in each subject area for which materials have been solicited for bid.

SECTION 11. Publish Instructional Materials Listing

The State Department of Education shall publish annually a listing of the newly adopted instructional materials for use in the public schools of South Carolina. A copy shall be provided to each school and school district.

SECTION 12. Substitution of Instructional Materials

Substitutions of new copyrights for instructional materials under contracts shall be allowed only with written permission as specified below.

A. Any company under contract desiring to substitute a later copyright of adopted instructional materials with minor changes that can be used interchangeably in the same classroom without confusion may make application to the State Superintendent of Education. The company shall submit the appropriate number of samples of the edition under contract, samples of the edition it proposes to substitute, and complete lists of changes between the editions. If, after consultation with the appropriate Review Panel, the State Superintendent of Education concludes that the two editions can be used interchangeably in the same classroom without confusion, the State Superintendent is authorized to grant permission to substitute the new edition. All substitutions made under this provision shall comply with Section 9 of the regulations as to the construction of the instructional materials. All substitutions made under this provision shall be approved by the State Superintendent of Education and reported to the State Board of Education.

B. Any company, desiring to substitute a later copyright of adopted instructional material that is so different from the original material that it cannot be used interchangeably in the same classroom without confusion, must make application to the State Board of Education and agree to take up all copies of the old instructional material in use in the public schools of South Carolina and allow an exchange rate to the State equal to any equity they have in the used material. The State Board of Education shall examine the company's request and if, in its judgment, there is sufficient merit to warrant further consideration, the State Board of Education shall instruct the appropriate Instructional Materials Review Panel to review the materials for substitution. After receiving the recommendation of the Panel, the State Board of Education shall determine whether the substitution shall be allowed.

C. In all substitutions allowed, prices shall not exceed the price named in the original contract.

SECTION 13. Instructional Materials Review Panel Expenses

All members of the Instructional Materials Advisory Committee and of the Instructional Materials Review Panels except ex-officio members or full-time employees of the State of South Carolina shall be paid expenses as prescribed by State law and as funds are available.

SECTION 14. Submission of Materials by Schools or School Districts

A school or school district may submit for review materials which in their opinion best suit the needs of the students in their care. Upon submission, the school or school district shall be notified of the time frame within which they may expect to have the materials for use in schools. Materials to be used during the following school year must be approved by the State Board of Education by May of each year.

The State Department of Education shall request the publisher/vendor to submit the materials for adoption and copies of sample materials for use by the appropriate Instructional Materials Review Panel. Inability to secure agreement from the publisher/vendor for participation in the review process shall result in a denial of the request for review. Any item previously reviewed by a Review Panel in the initial call for bids for a subject area shall not be considered for review under this section.

If the publisher/vendor agrees to submit the materials for adoption, all applicable adoption regulations will be followed. Materials approved under this section shall be available for public review through the State Department of Education. Under no circumstances shall this section be used as a vehicle to circumvent the State instructional materials adoptions.

SECTION 15. Registering of Bidders and Publishers

Any bidder or publisher submitting instructional materials to the State for adoption shall on or before the day bids are received register with the State Department of Education the names, home addresses, and business telephone numbers of all agents or employees of any kind or persons retained for legal or other services to whom there is being paid or there will be paid any salary, commission or royalty for representing the bidder or publisher. This information shall be kept open for inspection by the public, members of the State Board of Education, the Instructional Materials Advisory Committee, and the Instructional Material Review Panels. The failure of any bidder or publisher to register the names, home addresses, and business telephone numbers of all agents of any kind as specified shall be deemed as sufficient cause for summary rejection of the bid or proposal of that bidder or publisher.

SECTION 16. Conflict of Regulations

Any or all rules and regulations which may be in conflict with the provisions of this regulation are hereby declared null and void.

SECTION 17. State Board of Education Waiver

A. The State Board of Education may, in its discretion and upon written request of the Department or any person who is subject to this regulation, grant a variance from one or more specific provisions of this regulation. The requesting party shall:

1. identify the specific provisions of this regulation from which variance is sought
2. demonstrate that compliance with the identified provision would not be in the best interest of students, schools, school districts, or the state; and
3. demonstrate that the variance will have no significant adverse impact on the students, schools, school districts, or the state.

B. In granting a variance, the State Board may impose conditions reasonably necessary to assure that the subject activity will have no adverse impact on the students, schools, school districts, or the state.

C. Any variance granted by the State Board may be immediately withdrawn if the State Board finds noncompliance with conditions of the variance or other information that the variance is not in the public interest or that the petitioner has provided false or inaccurate information on which the variance was granted.

D. Nothing herein shall be construed as a waiver of the State Board's right to deny any petition for a variance.